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By: **Senators Stone and Hughes (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: January 29, 2003

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - State's Attorney Review of Applications for**  
3 **Statements of Charges**

4 FOR the purpose of requiring certain judicial officers to forward to a State's Attorney  
5 a copy of an application filed in the District Court requesting that a statement of  
6 charges be filed against certain persons for certain alleged offenses; requiring  
7 certain judicial officers to forward to a State's Attorney a copy of an application  
8 filed in the District Court and requested by certain persons who are not law  
9 enforcement officers that a statement of charges be filed against certain persons  
10 alleged to have committed certain offenses; authorizing certain judicial officers  
11 to take action on or forward to a State's Attorney a copy of an application filed in  
12 the District Court and requested by certain persons who are not law  
13 enforcement officers that a statement of charges be filed against certain persons  
14 alleged to have committed certain offenses; requiring a State's Attorney to  
15 investigate the circumstances of and make recommendations within a certain  
16 time period to a certain judicial officer as to whether a statement of charges  
17 should be filed under certain circumstances and as to whether a certain  
18 summons or warrant should be issued; prohibiting a statement of charges from  
19 being filed for certain alleged offenses until a State's Attorney has investigated  
20 a certain matter and made recommendations to a certain judicial officer under  
21 certain circumstances or until the expiration of a certain time period if no  
22 recommendation is received by the State's Attorney; providing that a State's  
23 Attorney is not precluded from making a determination that an information  
24 should be filed or that a grand jury should be convened to determine if an  
25 indictment should be filed for a certain alleged offense under certain  
26 circumstances; defining a certain term; providing that a certain note contained  
27 in this Act is not law; and generally relating to the review of applications filed in  
28 the District Court for a statement of charges for certain offenses under certain  
29 circumstances.

30 BY repealing and reenacting, with amendments,  
31 Article - Courts and Judicial Proceedings  
32 Section 2-608  
33 Annotated Code of Maryland

1 (2002 Replacement Volume)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article - Courts and Judicial Proceedings**

5 2-608.

6 (a) (1) In this section the following words have the meanings indicated.

7 (2) "Charging document" means a written accusation alleging that a  
8 defendant has committed an offense.

9 (3) "Citation" means a charging document, other than an indictment, an  
10 information, or a statement of charges, issued to a defendant by a peace officer or  
11 other person authorized by law to do so.

12 (4) "Educator" means a principal, vice-principal, teacher, or teacher's  
13 aide at a public or private preschool, elementary, or secondary school.

14 (5) "Emergency services personnel" means:

15 (i) A career firefighter of a county or municipal corporation;

16 (ii) An emergency medical services provider as defined in § 13-516  
17 of the Education Article of a county or municipal corporation;

18 (iii) A rescue squad employee of a county or municipal corporation;  
19 and

20 (iv) A volunteer firefighter, rescue squad member, or advanced life  
21 support unit member of a county or municipal corporation.

22 (6) "Indictment" means a charging document returned by a grand jury  
23 and filed in circuit court.

24 (7) "Information" means a charging document filed in court by a State's  
25 Attorney.

26 (8) "JUDICIAL OFFICER" MEANS A DISTRICT COURT JUDGE OR A  
27 DISTRICT COURT COMMISSIONER.

28 (9) "Offense" means a violation of the criminal laws of the State or any  
29 political subdivision of the State.

30 [(9)] (10) "Statement of charges" means a charging document, other than  
31 a citation, filed in District Court by a peace officer, a District Court Judge, or a  
32 District Court Commissioner.

1 [(10)] (11) "Law enforcement officer" means a law enforcement officer as  
2 defined in Article 27, § 727(b) of the Code or any federal law enforcement officer who  
3 exercises the powers set forth in § 2-104 of the Criminal Procedure Article.

4 (b) (1) [An] THE JUDICIAL OFFICER SHALL IMMEDIATELY FORWARD TO  
5 THE STATE'S ATTORNEY, A COPY OF AN application filed in the District Court:

6 (I) [that] THAT requests that a statement of charges be filed  
7 against a law enforcement officer, emergency services personnel, or an educator for an  
8 offense allegedly committed in the course of executing the duties of the law  
9 enforcement officer, emergency services personnel, or educator [shall immediately be  
10 forwarded to the State's Attorney]; OR

11 (II) BY ANY PERSON WHO IS NOT A LAW ENFORCEMENT OFFICER  
12 THAT REQUESTS THAT A STATEMENT OF CHARGES BE FILED AGAINST A PERSON  
13 ALLEGED TO HAVE COMMITTED AN OFFENSE, EXCEPT FOR AN OFFENSE DESCRIBED  
14 IN TITLE 3 OF THE CRIMINAL LAW ARTICLE.

15 (2) THE JUDICIAL OFFICER MAY TAKE ACTION ON OR FORWARD TO THE  
16 STATE'S ATTORNEY A COPY OF AN APPLICATION FILED IN THE DISTRICT COURT BY  
17 ANY PERSON WHO IS NOT A LAW ENFORCEMENT OFFICER THAT REQUESTS THAT A  
18 STATEMENT OF CHARGES BE FILED AGAINST A PERSON ALLEGED TO HAVE  
19 COMMITTED AN OFFENSE DESCRIBED IN TITLE 3 OF THE CRIMINAL LAW ARTICLE.

20 (c) (1) Upon receiving A COPY OF an application filed in District Court  
21 requesting that a statement of charges be filed [against a law enforcement officer,  
22 emergency services personnel, or an educator] FOR AN ALLEGED OFFENSE  
23 DESCRIBED IN SUBSECTION (B) OF THIS SECTION, the State's Attorney shall:

24 (i) Investigate the circumstances of the matter; and

25 (ii) [Make] WITHIN 20 DAYS OF RECEIPT OF THE APPLICATION,  
26 MAKE a recommendation to the [District Court Commissioner] JUDICIAL OFFICER as  
27 to whether a statement of charges should be filed [against the law enforcement  
28 officer, emergency services personnel, or the educator].

29 (2) If the State's Attorney recommends to a [District Court  
30 Commissioner] JUDICIAL OFFICER that a statement of charges be filed [against a  
31 law enforcement officer, emergency services personnel, or an educator] FOR AN  
32 ALLEGED OFFENSE DESCRIBED IN SUBSECTION (B) OF THIS SECTION, the State's  
33 Attorney shall also make a recommendation as to whether a summons or warrant  
34 should issue.

35 (d) Notwithstanding any other provision of the Code or the Maryland Rules, a  
36 statement of charges [for an offense allegedly committed in the course of executing  
37 the duties of the law enforcement officer, emergency services personnel, or the  
38 educator may not be filed against a law enforcement officer, emergency services  
39 personnel, or educator] FOR AN ALLEGED OFFENSE DESCRIBED IN SUBSECTION (B)(1)  
40 OF THIS SECTION MAY NOT BE FILED until:

1           (1)       [the] THE State's Attorney has investigated the circumstances of the  
2 matter and made recommendations to the [District Court Commissioner] JUDICIAL  
3 OFFICER in accordance with subsection (c) of this section; OR

4           (2)       THE EXPIRATION OF THE TIME PERIOD PROVIDED IN SUBSECTION  
5 (C)(1)(II) OF THIS SECTION IF NO RECOMMENDATION IS RECEIVED FROM THE STATE'S  
6 ATTORNEY.

7       (e)       This section may not be construed to preclude the State's Attorney from  
8 making a determination that an information should be filed [against a law  
9 enforcement officer, emergency services personnel, or an educator] FOR AN ALLEGED  
10 OFFENSE DESCRIBED IN SUBSECTION (B)(1) OF THIS SECTION or that a grand jury  
11 should be convened to determine whether an indictment should be filed.

12       COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): It is intended  
13 that among the options for recommendations that a State's Attorney may make to the  
14 District Court as an alternative to the issuance of a statement of charges under this  
15 section is for the parties to engage in mediation to resolve a dispute, if appropriate.

16       SECTION 2. AND BE IT FURTHER ENACTED, That the Committee Note  
17 contained in this Act is not law.

18       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2003.